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CLERK OF DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

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FEB -4 2000

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DISTRICT

**1:00 CV 0350**

EMERSON ELECTRIC CO.  
8000 W. Florissant  
P.O. Box 4100  
St. Louis, Missouri 63136-8506

and

RIDGE TOOL COMPANY  
400 Clark Street  
Elyria, Ohio 44036-2023

Plaintiffs,

v.

HEICO HOLDING, INC.  
2075 Foxfield Road, Ste. 102  
Saint Charles, IL 60174

and

PETTIBONE L.L.C.  
4225 Naperville Road, Ste. 2000  
Lisle, IL 60532

d/b/a

SPARTAN TOOL L.L.C.  
1506 Division St.  
Mendota, IL 61342

Defendants.

CASE NO. **JUDGE GAUGHAN**  
JUDGE

COMPLAINT

JURY TRIAL DEMANDED

**MAG. JUDGE VECCHIARELLI**

Plaintiffs Emerson Electric Co. and Ridge Tool Company complain of defendants Heico Holding, Inc. and Pettibone L.L.C. d/b/a Spartan Tools L.L.C., and allege as follows:

**PARTIES**

1. Emerson Electric Co. ("Emerson") is a corporation existing and organized under the laws of the State of Missouri and has a place of business at 8000 West Florissant Avenue, St. Louis, Missouri 63136.

2. Ridge Tool Company ("Ridge Tool") is a corporation duly organized and existing under the laws of the State of Ohio, having its principal place of business in Elyria, Ohio.

3. Upon information and belief, Spartan Tools L.L.C., having a place of business at 1506 Division Street, Mendota, Illinois 61342, is a Division of Pettibone L.L.C., a Limited Liability Company existing under the laws of the State of Delaware and having a place of business at 4225 Naperville Road, Ste. 200, Lisle, IL 60532, which is a wholly-owned subsidiary of Heico Holding, Inc., a corporation existing and organized under the laws of the State of Delaware and having a place of business at 2075 Foxfield Road, Ste. 102, Saint Charles, IL 60174 (collectively "Spartan"). Upon information and belief, Spartan transacts business in Ohio.

**JURISDICTION AND VENUE**

4. This is an action for patent infringement. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this claim arises under the United States Patent laws (Title 35 of the United States Code).

5. Venue is proper in this District pursuant to 28 U.S. C. § 1391 and § 1400. Defendant Spartan resides in this judicial District because, upon information and belief, it

regularly and systematically conducts business in this District, and more specifically, upon information and belief, it has sold infringing products in this District.

### **BACKGROUND FACTS**

6. Emerson is a diversified company engaged in the manufacture and sale of a wide variety of industrial products such as electric motors, compressors, measuring instruments, power tools, and plumbing equipment.

7. Ridge Tool -- a subsidiary of Emerson -- manufactures, develops, markets, and sells tools to the professional pipeworking and plumbing industry. Ridge Tool manufactures over 300 different tools, including a large line of pipe and drain cleaning equipment.

### **COUNT I** **INFRINGEMENT OF U. S. PATENT NO. 5,901,401**

8. Emerson and Ridge Tool ("Plaintiffs") incorporate by reference and re-allege the previous paragraphs of this Complaint as if they were fully set forth herein.

9. Emerson is the owner by assignment of United States Patent No. 5,901,401 (the "'401 patent"), entitled "Feed Control Device for Plumbing Tools." A copy of the '401 patent is attached as Exhibit A to this Complaint.

10. The '401 patent was duly and legally issued by the United States Patent and Trademark Office on May 11, 1999, and is presently subsisting. Ridge Tool is Emerson's exclusive licensee of the '401 patent.

11. Upon information and belief, Spartan has been and is now infringing the '401 patent in this District and elsewhere by making, using, offering to sell and/or selling products covered by one or more claims of the '401 patent. Spartan's activities include at least making,

selling, and offering for sale its 502 Cable Machine. A brochure of Spartan's 502 Cable Machine is attached as Exhibit B.

12. All of the acts of Spartan have been without right or license from Emerson.

13. Upon information and belief, Spartan's acts of infringement of the '401 patent were and are willful and deliberate, and Plaintiffs believe a finding of willfulness will have evidentiary support after a reasonable opportunity for further investigation and discovery.

14. Upon information and belief, Spartan's infringement will continue unless enjoined by this Court.

15. As a result of the infringing activities of Spartan, Plaintiffs have been and continue to be damaged in an amount that will be proven at trial, and Plaintiffs have suffered irreparable injury.

**COUNT II**  
**PATENT INFRINGEMENT OF U. S. PATENT NO. 6,009,588**

16. Plaintiffs incorporate by reference and re-allege the previous paragraphs of this Complaint as if they were fully set forth herein.

17. Emerson is the owner by assignment of United States Patent No. 6,009,588 (the "'588 patent"), entitled "Drain Cleaning Apparatus." A copy of the '588 patent is attached as Exhibit C to this Complaint. Ridge Tool is Emerson's exclusive licensee of the '588 patent.

18. The '588 patent was duly and legally issued by the United States Patent and Trademark Office on January 4, 2000, and is presently subsisting.

19. Upon information and belief, Spartan has been and is now infringing the '588 patent in this District and elsewhere by making, using, offering to sell and/or selling products covered by one or more claims of the '588 patent. Spartan's activities include at least making,

selling, and offering for sale its 502 Cable Machine. A brochure of Spartan's 502 Cable Machine is attached as Exhibit B.

20. All of the acts of Spartan have been without right or license from Emerson.

21. Upon information and belief, Spartan's acts of infringement of the '588 patent were and are willful and deliberate, and Plaintiffs believe a finding of willfulness will have evidentiary support after a reasonable opportunity for further investigation and discovery.

22. Upon information and belief, Spartan's infringement will continue unless enjoined by this Court.

23. As a result of the infringing activities of Spartan, Plaintiffs have been and continue to be damaged in an amount that will be proven at trial, and Plaintiffs have suffered irreparable injury.

#### **REQUESTED RELIEF**

Plaintiffs request the following relief:

- A. That this case be deemed exceptional;
- B. That Plaintiffs be awarded compensatory damages under 35 U.S.C. § 284 against Spartan in an amount to be determined at trial;
- C. That Plaintiffs be awarded treble damages under 35 U.S.C. § 284 against Spartan;
- D. That Spartan be preliminarily and permanently enjoined from making, using, offering for sale or selling drain cleaners covered by the '401 patent under 35 U.S.C. § 283;
- E. That Spartan be preliminarily and permanently enjoined from making, using, offering for sale or selling drain cleaners covered by the '588 patent under 35 U.S.C. § 283;
- F. That Plaintiffs be awarded reasonable attorney fees under 35 U.S.C. § 285, costs of suit, and pre- and post-judgment interest; and

G. That Plaintiffs be awarded such other and further relief as the Court deems proper.

**JURY TRIAL DEMAND**

Plaintiffs demand a trial by jury on all issues triable by jury.

Respectfully submitted,

DATED: Feb. 4, 2000



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